

C A Z D N  
H # 25  
- 251

Government  
Publications

DEPOSITORY LIBRARY MATERIAL

3 1761 118937010

# Zoning By-law Approvals in Municipalities with an Official Plan in Effect

R1 A planning guideline for regulations made under section 35 (24) of The Planning Act



Revised October 1980

Operations Control Branch



Ministry of  
Housing



# Zoning Bylaw Approvals in Municipalities with an Official Plan in Effect

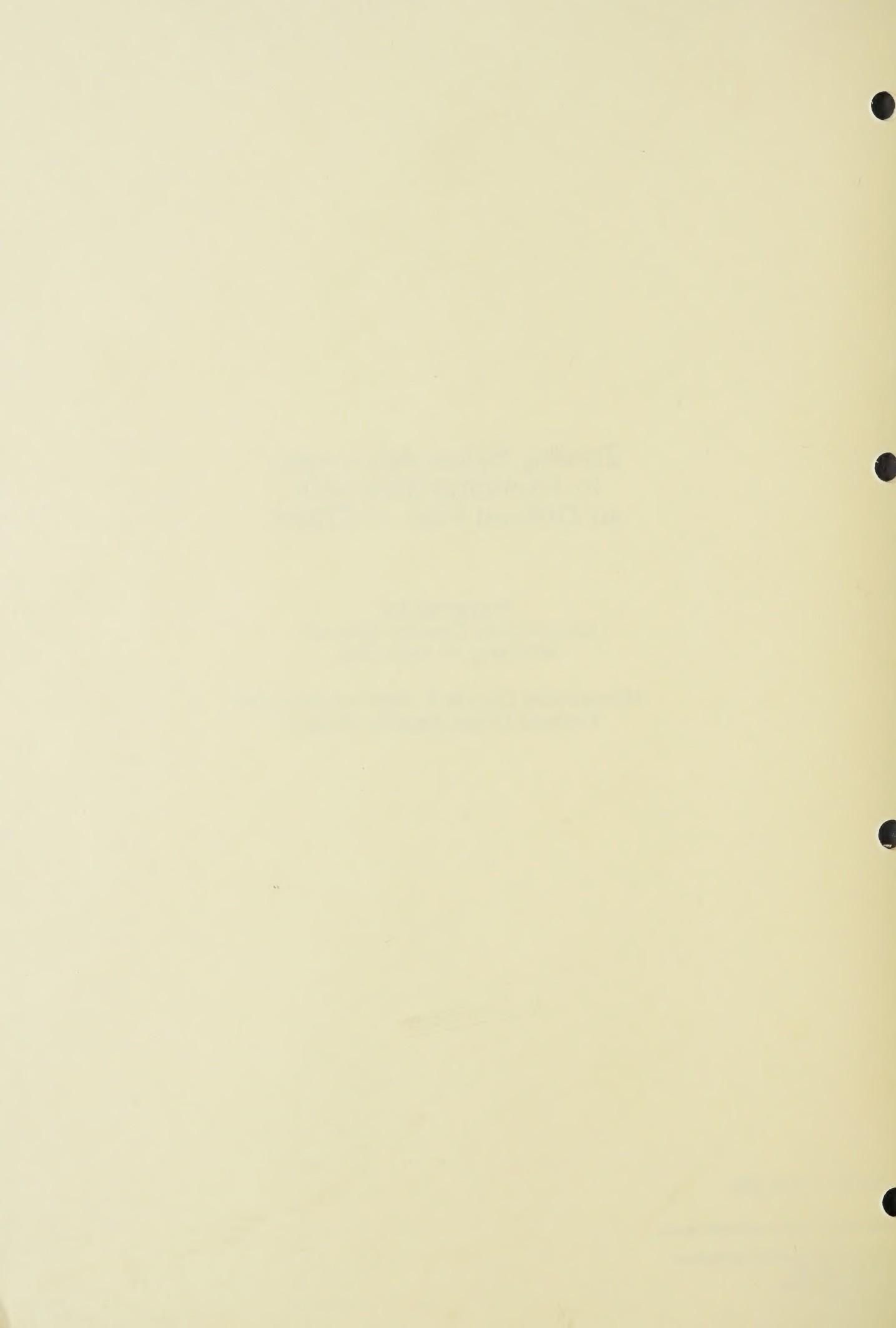
Prepared by  
Operations Control Branch  
Ministry of Housing

Honourable Claude F. Bennett, Minister  
Richard Dillon, Deputy Minister

Revised October, 1980

Additional copies available from:

Ontario Government Bookstore  
880 Bay Street  
Toronto, Ontario  
M7A 1Y7



This guideline has been prepared for information purposes only and is subject to change. Consult with your solicitor for any legal questions.



## 1. BACKGROUND

Under the Provisions of section 35(24) of The Planning Act the Lieutenant Governor-in-Council has made a regulation that provides procedures for zoning by-laws to come into effect without Ontario Municipal Board approval in municipalities where an official plan is in effect. This planning guideline has been prepared for municipal councils and clerks. It explains the administrative procedures for using this regulation.

## 2. THE ZONING APPROVAL PROCESS

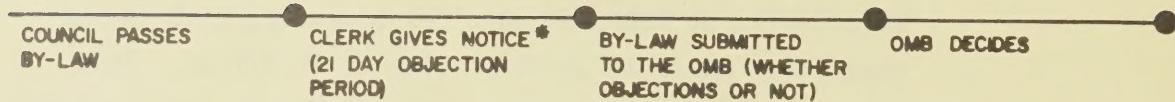
### 2.1 The Process - In the Past and Today

Before this regulation came into effect, all zoning by-laws passed under section 35 of The Planning Act were approved by the Ontario Municipal Board. As of September 1, 1979 municipalities with an official plan in effect can either submit their zoning by-laws to the Ontario Municipal Board for approval or they can proceed in accordance with the regulation. The regulation allows the zoning by-law to come into effect without Ontario Municipal Board approval provided that no objections are received. Figure 1 shows the by-law approval process for zoning by-laws submitted to the Ontario Municipal Board. Those municipalities where no official plan is in effect must submit their zoning by-laws to the Ontario Municipal Board. Figure 2 shows the process under the regulation.

The regulation is intended to:

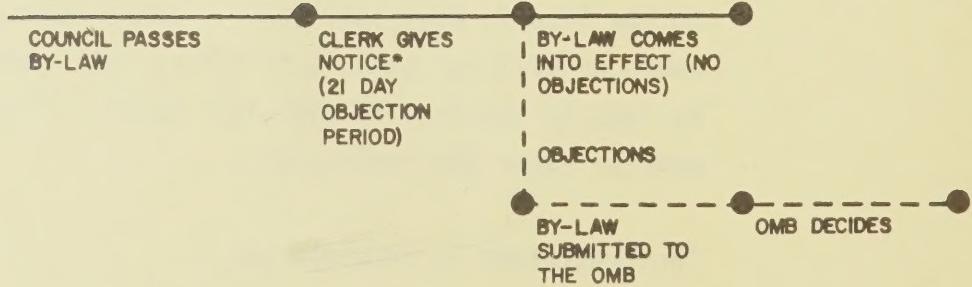
- . speed up the approval process for by-laws that conform to an approved official plan,
- . reduce the workload of the OMB so that it is free to consider other matters.

FIG. I. ZONING BY-LAW APPROVAL PROCESS - Municipalities with no official plan



\* Notice in accordance with  
OMB rules of procedure  
for zoning by-law  
applications

FIG. 2. ZONING BY-LAW APPROVAL PROCESS - S.35 (25) Of The Planning Act  
(municipalities with approved official plans)



\* Notice in accordance with  
regulations made under  
S.35 (24) of The  
Planning Act (includes  
completion of schedules  
2,3, and 4 in Form I)

## 2.2 Municipalities that are Eligible

Section 35(25) of The Planning Act states that the regulation may be used "where an official plan is in effect in a municipality ..."

approved  
official  
plan

If a municipality wants to use the regulation, the official plan must be in effect, i.e., approved by the minister, his delegated approval authority, or the Ontario Municipal Board.

type of  
plan

The official plan need not necessarily be a local official plan. It can be a joint official plan or even a regional or county plan. It does not have to cover the whole municipality. It may only be partially approved.

## 2.3 Using the Regulation

As long as the municipality meets the requirement of having "an official plan in effect", then it may use the regulation for zoning by-laws that council passes.

Municipalities with approved official plans can choose not to use the regulation and submit their zoning by-laws to the Ontario Municipal Board for approval. Even though municipalities with approved official plans have the option, we suggest municipalities eligible to use the regulations do so whenever possible.

situ-  
tions  
where not  
appropriate

However, there are certain situations where it is not recommended that the regulation be used.

Legally, the municipality can use the regulation for the following situations, even though it is not considered advisable. If the regulation is used, the province/region in reviewing such by-laws, will assess on an individual basis whether an objection should be filed.

2.3.1 By-laws to Implement Official Plan Amendments

Section 19(2) of The Planning Act allows a municipal council to adopt an implementing zoning by-law at the same time it adopts the official plan amendment. A municipality may choose to adopt both the by-law and official plan amendment together. If it does so, then the zoning by-law should be submitted to the Ontario Municipal Board for approval or not be processed under the regulation until the official plan amendment has been approved, since changes to the official plan amendment before it is approved can affect the text of the zoning by-law.

2.3.2 By-laws to Implement Plans of Subdivision

We do not recommend this alternative approval process before a subdivision plan has received draft approval under section 33(12) of The Planning Act. Prior to draft approval, the draft plan including lot lines, setbacks, etc., is subject to change. Zoning by-laws that establish use, density and development standards should not be passed by council until after draft approval.

Once draft approval has been given, the use of the regulation is fine. After the by-law comes into effect under the regulation, a copy of the certificate prepared under section 35(27) of The Planning Act, (also see section 5.2, "The Certificate") should be forwarded to the office processing the draft plan of subdivision. Similarly, if an objection is lodged to such a by-law, the subdivision approval authority should also be notified.

### 2.3.3 Comprehensive Zoning By-laws

We do not recommend using this alternative approval process for comprehensive zoning by-laws. The 21 day notice period, in most cases, will not be sufficient to evaluate the technical and conformity concerns. Comprehensive zoning by-laws should be submitted to the OMB for approval. All zoning by-law amendments to comprehensive zoning by-laws that have not yet received OMB approval should also be submitted to the Board and not proceed under the regulation.

3. PROCEEDING UNDER THE REGULATION

3.1 Notice - Form 1

If council has decided to use the regulation, the clerk must give notice of passing of the by-law using Form 1 of the regulation.

caution

Form 1 is very similar to the notice form when a by-law is submitted to the Ontario Municipal Board for approval. If the council is proceeding under section 35(25) of The Planning Act, then it must use the correct notice form or it may jeopardize the legality of the by-law.

3.2 The Schedules

Certain schedules must be attached to Form 1.

3.2.1 Schedule 1 - Copy of the By-law

no summary

The text of the by-law at third reading must be reproduced entirely. There is no provision for a summary.

closing  
statement  
not neces-  
sary

Many by-laws have a closing statement which reads something like this:

"This by-law shall come into effect on the date of passing subject to the approval of the Ontario Municipal Board."

If the municipality wishes to keep its options open, i.e., submit the by-law directly to the Board or use the regulation, then it should eliminate this kind of closing statement from its by-laws. It is not legally necessary, even though it is used by many municipalities.

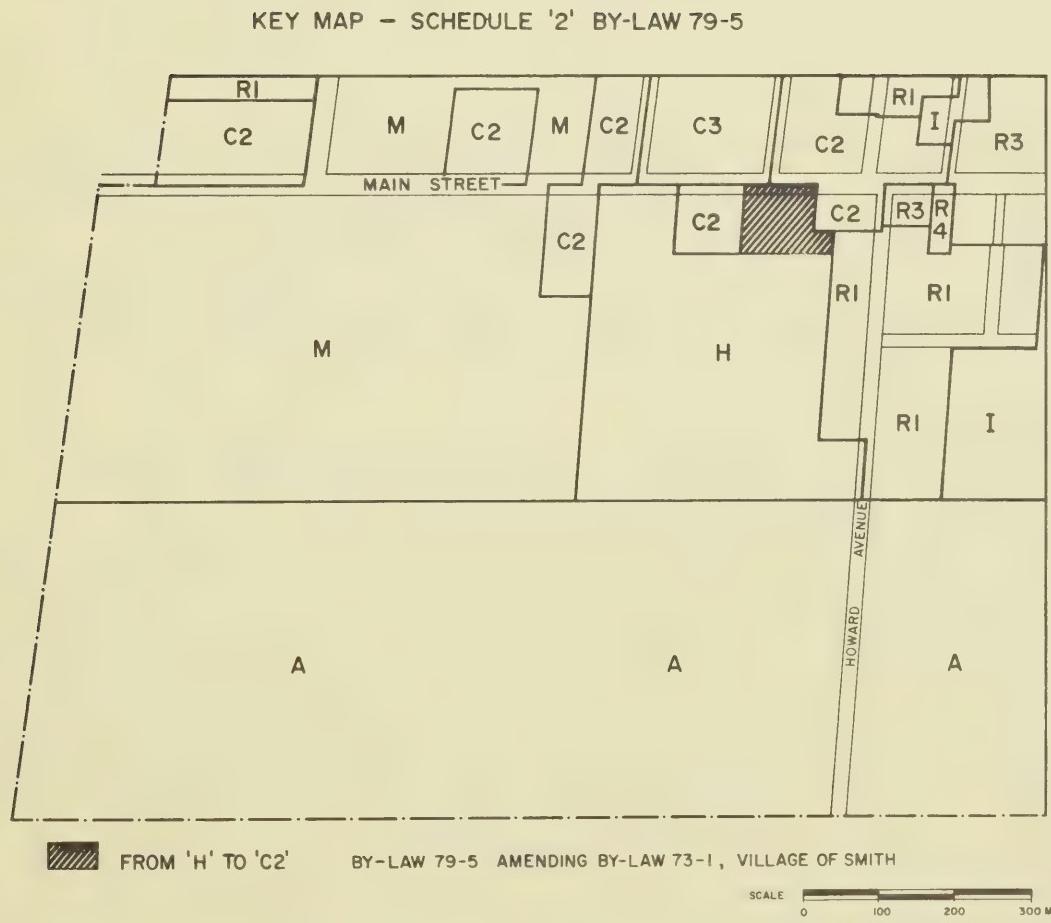
### 3.2.2 Schedule 2 - The Key Map and Statement of Purpose in Effect

#### key map

The key map helps those receiving notice to locate the property. The map should be drawn to scale; however, no specific scale size is required. It is suggested that the key map include:

- north arrow
- major roads
- identify the lands to be rezoned.

Here is an example:



In certain situations, such as a change to the written text of the by-law, no key map will be necessary because the text change will apply to properties throughout the municipality. In this situation, Schedule 2 should specify "key map showing location of lands affected by By-law ..... is not necessary because this by-law is for a change to the text of By-law ..... and will affect properties throughout the municipality". Also, if the by-law contains a map that is suitable as a key map, Schedule 2 may specify "see Schedule ..... to By-law .....".

statement  
of purpose  
and effect

The statement of purpose and effect explains what the by-law does. The explanation should be clear, concise and in layman's rather than technical language or jargon.

An example could be:

"The by-law rezones the parcel of land at the intersection of Willow Street and Dale Avenue from single family residential to multiple family residential. The multiple family residential zone permits a maximum of a three storey walk-up apartment to locate on the site. There will be one driveway on Dale Avenue."

3.2.3 Schedule 3 - Statement of Conformity to the Official Plan

who  
prepares

Schedule 3 is a statement of the proposed by-law's conformity to the local or area official plan. As section 1(a)(i) of the regulation stipulates, the chief planning officer for the purpose of completing Schedule 3 is "the planner designated by resolution of the council of the local municipality .....". If council passes no resolution, then the clerk completes it.

where not required

Schedule 3 is not completed and does not form part of the notice package for those municipalities in:

- . The County of Oxford
- . The Regional Municipalities of:
  - Haldimand-Norfolk
  - Durham
  - Sudbury
  - The District of Muskoka
- . and all municipalities that do not have an official plan in effect.

schedule numbering

If there is no Schedule 3, then the notice can indicate that Schedule 3 has not been completed because there is no local official plan in effect.

**3.2.4 Schedule 4 - Statement of Conformity to a Regional or Joint Official Plan**

---

who prepares

Schedule 4 is a statement of conformity to a regional or joint official plan (where the county is the designated municipality of the joint planning area). It is completed by the chief planning officer, the planner designated by a resolution of the regional or county council. Council must pass a resolution to authorize a planner to complete Schedule 4.

where not required

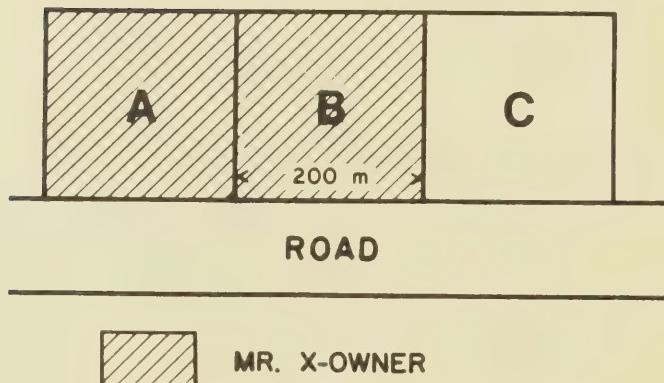
Schedule 4 is not completed where there is no regional or joint official plan in effect.

**3.3 Notice to Assessed Owners-  
by Mail or Personal Service**

Once the by-law is passed, the clerk can give notice to those specified in section 4 of the regulation.

The notice is given either by mail or personal service. The notice must go to all assessed owners of land according to the last revised assessment roll whose property:

- . is subject to the provisions of the zoning by-law
- . is within 120 metres of the area to which the zoning by-law applies
- . is more than 120 metres away in the following situation:



Mr. X owns both parcels A and B. The by-law affects parcel A only. The regulation states that every one within 120 metres must receive notice. In this situation Mr. X owns the adjacent 200 metres. Only he would receive notice. Provision 4-(1)(a)(iii) means the owner of parcel C would receive notice even though he is more than 120 metres away.

measuring  
the distance

We recommend calculating the 120 m from the outer boundary of the area to which the by-law applies.

120 m a  
minimum

It should also be remembered that 120 m is a minimum. It can be exceeded. Council can decide when it passes the by-law whether the 120 m should be exceeded and can direct the clerk accordingly.

**3.4. Alternative Notice to Assessed Owners-  
by Publication (Section 4-(4) of the Regulation)**

Alternative notice gives municipalities an option when there are more than 100 assessed owners that would require notice of passing of the by-law under section 4-(1)(a).

optional  
requirement

Municipalities can choose not to use the alternative notice requirement even when the number of assessed owners exceeds 100.

council  
must direct  
clerk

Council must direct the clerk if it wants alternative notice. This can be done by resolution at the same meeting when the by-law is passed.

The notice for publication is the notice in Form 1. There is no provision for an abridged Schedule 1 (copy of the by-law). Comprehensive zoning by-laws and longer, complicated zoning by-law amendments should be submitted to the Ontario Municipal Board for approval and not be processed under the regulation.

publica-  
tion twice

The regulation states that the notice must be published once a week for two consecutive weeks in a newspaper having general circulation in the area to which the by-law applies. It does not necessarily have to be a daily newspaper. Weekly newspapers are acceptable provided that they are generally circulated in the local area affected.

caution -  
cottage  
areas

Council should use the alternative notice provision with some caution, particularly in cottage areas, where property owners may not have access to the local newspapers throughout the year. It is also not suitable for comprehensive zoning by-laws. (See also section 2.3.3 of this booklet).

The last date for objections will be 21 days after the printing of the first public notice.

### 3.5 Notice to Agencies

The notice requirements under section 4 of the regulation are similar to those in the Ontario Municipal Board's Rules of Procedure.

Some changes have been made, however, to ensure provincial agencies are informed of by-laws that may affect their interests.

Council should also remember that it can add to this notice list. If, for example, there are local special interest groups that may be affected by a proposed by-law, council can direct the clerk to give them notice.

### 3.6 Notice During Mail Disruptions

Section 4(3) of the regulation deals with mail disruptions. If there is a mail disruption within 3 days of notice being given by prepaid first-class mail, then the notice is considered to be mailed on the day the mail service begins again.

There are 21 days after the date on which mail service begins again to lodge an objection.

4. OBJECTIONS AND THE ONTARIO MUNICIPAL BOARD

4.1 The Objection Period

There are 21 days to object to or to write a letter in support of the by-law. The regulation specifies that this period begins the day after the notice is mailed, delivered, or published (section 3(2) of the regulation).

If notice is given by publication, the notice is given twice. There are 21 days from the date of the first published notice for objections.

The regulation specifies that objections must be made to the clerk. Once the clerk receives objections, the by-law must be submitted to the Ontario Municipal Board. (Section 35(26) of The Planning Act).

OMB rules  
of procedure

The submission to the Ontario Municipal Board is made in accordance with the Ontario Municipal Board's Rules of Procedure.

These rules are followed for all by-laws that are submitted to the Board. If you do not have a copy, these rules are available from:

Mr. K.C. Andrews  
Secretary  
The Ontario Municipal Board  
180 Dundas Street West  
Toronto, Ontario  
M5G 1E5

in lieu of  
notice under  
its rules of  
procedure

It is the Board's procedure to accept notice given under the regulation so it will not be necessary for the clerk to give notice again. However, all other provisions of the Board's rules including the completion of affidavits will have to be met before submitting the by-law to the OMB.

objections  
with  
reasons

The regulation states that the objection must be accompanied by reasons. The municipal clerk, however, is to make no judgement on the validity of an objection if no reasons are included. The Board will review each objection and contact those objectors where more information is needed.

timing

Section 3(1) of the regulation states that the objection must be filed within 21 days. As discussed in section 3.6 of this booklet, where there is a mail disruption, the objection period begins the day after mail service is resumed.

filed

The word "filed" means received. The objection must be received by the clerk before the objection period expires or it is not valid.

last day  
not a  
holiday

The last date for objections must be a week day that is not a holiday.

If a notice of objection is received, the Plans Administration Division of the Ministry of Housing (and the regional municipality where there is one) should be notified. The clerk should state the by-law number and give the objector's name when he informs the region or the Ministry of Housing.

5. THE BY-LAW COMES INTO EFFECT

5.1 General

Section 35(25) of The Planning Act states that the by-law "comes into effect" if notice is given in accordance with the regulations and no objections are received.

No building permits should be issued until the objection period has passed.

5.2 The Certificate

If a by-law is submitted to the Ontario Municipal Board for approval, the Board order is proof that the by-law has come into force.

Section 35(27) provides for a certificate of the clerk that is proof that the by-law has come into force and that the procedures prescribed in the regulations have been complied with.

sample  
certificate

We have prepared a sample certificate for your information. The form of the certificate is not prescribed by regulation, but we do recommend the use of a certificate that is similar to this one.

This certificate is proof that the by-law is in effect and that the regulation has been complied with.

Certificate under Section 35(27) of The Planning Act

I ..... hereby certify that the notice for By-law \_\_\_\_\_ of (name of municipal corporation), passed by the council of the Corporation on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ was given in the manner and form and to the persons prescribed by regulation made by the Lieutenant Governor-in-Council under subsection 24 of section 35 of The Planning Act. I also certify that the 21 day objection period expired on \_\_\_\_\_ and to this date no notice of objection or request for a change in the provisions of the by-law has been filed by any person in the office of the clerk.

Dated this \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_.

---

Clerk

copy of  
certificate  
to Ministry  
of Housing

A certified copy of the certificate should be forwarded to:

- a) Ministry of Housing  
Plans Administration Division  
56 Wellesley Street West  
8th Floor  
Toronto, Ontario  
M7A 2K4
- b) the chief planning officer  
of the regional, district,  
metropolitan municipality  
or restructured county.  
(For municipalities in  
regions only.)

The original certificate should be kept by the clerk as part of the municipal records.

## 6. ADDITIONAL INFORMATION

For additional information or assistance contact:



- ## 6.2 The Community Planning Advisory Branch in your area.

## Central Region

2nd Floor  
47 Sheppard Avenue East  
Willowdale (Toronto)  
M2N 2Z8  
Telephone: (416)224-7635

South West Region

7th Floor  
495 Richmond Street  
London  
N6A 5A9  
Telephone: (519)673-1611

## South East Region

3rd Floor  
244 Rideau Street  
Ottawa  
K1N 5Y3  
Telephone: (613)566-3801

## North West Region

435 James Street South  
Thunder Bay  
P7C 5G6  
Telephone: (807)475-1651

## North East Region

1191 Lansing Avenue  
Sudbury  
P3A 4C4  
Telephone: (705)560-0120









Designed and produced by  
Communications branch  
Ministry of Housing

3M/9-80/M 100